

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

MELVA RIOS)	
Claimant)	
VS.)	
)	Docket No. 213,011
STANTON COUNTY HOSPITAL)	
Respondent)	
AND)	
)	
EMPLOYERS MUTUAL CASUALTY COMPANY)	
Insurance Carrier)	

ORDER

Respondent appeals from the preliminary hearing Order of Administrative Law Judge Kenneth S. Johnson dated February 14, 1997, wherein claimant is granted temporary total disability compensation and medical benefits for an injury to her left lower extremity.

ISSUES

Whether claimant suffered accidental injury arising out of and in the course of her employment.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based upon the evidence presented and for the purpose of preliminary hearing, the Appeals Board finds as follows:

Claimant suffered accidental injury to her left lower extremity on March 28, 1993, when she did the splits while at work. She received treatment for her left lower extremity and was returned to work at full duty. Claimant contends she suffered ongoing symptomatology to her left lower extremity through the present period. Respondent contends claimant was returned to work asymptomatic and did not begin complaining of the current symptoms until approximately two years after her last treatment. An MRI done in March 1993 indicated a

basically normal left knee. An MRI done in March 1996 indicates a tear of the medial meniscus. It is respondent's contention that claimant has suffered a new injury not arising out of and in the course of her employment leading to her current symptomatology.

John H. Gilbert, M.D., an orthopedic surgeon who examined claimant in 1995 found claimant's current symptoms to be similar to although somewhat more extensive than those experienced in 1993. In his opinion, the connection between the 1993 injuries and the current complaints is not outside the realm of medical possibility. Dr. Dan Cullum of the Cullum Chiropractic Clinic stated that according to his findings, the current trauma could have occurred two-and-a-half to three years ago and should be covered by Workers Compensation.

In Workers Compensation proceedings it is the claimant's burden to prove by a preponderance of the credible evidence her entitlement to benefits. See K.S.A. 1992 Supp. 44-501 and 44-508(g).

Uncontradicted evidence which is not improbable nor unreasonable may not be disregarded unless it is shown to be untrustworthy. Anderson v. Kinsley Sand & Gravel, Inc., 221 Kan. 191, 558 P.2d 146 (1976).

The medical opinions of Dr. Gilbert and Dr. Cullum are basically uncontradicted. While Dr. Gilbert does not state within a reasonable degree of medical probability that the current symptoms are connected to the 1993 injury he does say that it is not outside the realm of medical possibility. Dr. Cullum's statement is more emphatic in finding that claimant's current symptoms should be paid for through Workers Compensation. The Appeals Board finds that the opinions of Dr. Gilbert and Dr. Cullum are sufficient to support an award of compensation for preliminary purposes.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Order of Administrative Law Judge Kenneth S. Johnson dated February 14, 1997, should be and is affirmed.

IT IS SO ORDERED.

Dated this ____ day of March 1997.

BOARD MEMBER

c: John D. Shultz, Dodge City, KS
James M. McVay, Great Bend, KS
Kenneth S. Johnson, Administrative Law Judge
Philip S. Harness, Director